



Supporting Arizona families of
children with disabilities or
special health needs

Guardianship; Turning 18 what's next?
Making the decision; Understanding the process

Tucker



Learning Objectives



Participants will learn:

- Guardianship, Responsibilities and Types
- The Process of Becoming a Guardian
- Alternatives to Guardianship
- Parent Perspective and Experience



Family Experience



- Finding the right balance between allowing independence and protection.
 - Role of parents
- All parents struggle with the gravity of these issues.
- For parents of young adults with disabilities there are an extra set of concerns involving continuity of care throughout the life span.
- There are alternatives to guardianship that may be appropriate for your young adult.
- Only you and your family can make the determination.

Guardianship & Other Options



- We are not *lawyers* and can not give you legal advice
- You should consult an attorney for any legal questions
- *Federal and state laws are subject to change*

What is a Guardianship?



- Guardianship is when a person is appointed by a court
 - to provide care and make decisions by ***informed consent***



When a youth reaches the ***age of majority*** on their 18th birthday; what decisions need to be made?

SB 1081



Is Guardianship Needed?



- Is the person at risk of:
 - Being misguided by others
 - Making a decision that could put them in danger
- Are professionals saying:
 - They don't have capacity to make decisions



Responsibilities of Guardian



To seek services that are in the best interest of the person.

Taking into consideration....



Are You Liable for Ward's Actions?



If a guardian has carried out his duties as assigned by the court order in the guardianship proceedings and have done this “best” to fulfill court obligations with informed consent, the guardian would not be liable for his ward's actions.



Types of Guardianship



- Full Guardianship
- Limited Guardianship
- Guardian Ad Litem
- Temporary Guardian

(Guardians can expect yearly home visits by the courts and court appointed attorney to insure best interest of ward)

Guardianship is stronger than Power of Attorney

Full Guardianship



The guardian has responsibility for:

- Living Arrangements
- Education
- Social Activities
- Medical Care
- Right to Marry

This person cannot vote in elections or drive a car.

Limited Guardianship



The person filing for guardianship can request that the court limit the person's rights in certain areas:

- Contracts
- Healthcare choices



Guardian Ad Litem



Appointed by the court for special protection; effective immediately

- specified time
- single action
- limited purpose



Temporary Guardian



Can be appointed by the court in the event of an emergency, this process requires representation by an attorney.



Fee Waivers



- You can obtain paperwork to waive fees at the courthouse
 - Based on the ward's income



Change in Guardian



- A guardianship may be changed at any time it is shown that a change is in the best interest of a protected person
- Any change in guardian requires a petition filed in court.



Termination of Guardianship



- Terminates upon the death of the guardian or ward
- Resignation of the guardian
- Determination that the ward no longer needs a guardian
- Determination that the guardian has become unable to serve as a guardian



Mental Health Issues and Guardianship



Any guardianship document containing mental health provisions must be renewed annually by a neuro-psychologist or psychiatrist.



Document Review



- Annual reporting is required for guardianship
- Review documents on a yearly basis and change any outdated information
- Additional documentation is required:
 - Mental Health
 - Financial



Alternatives to Guardianship



Many families choose the **least restrictive** options regarding guardianship for managing individual's rights to their life decisions.

(Power of Attorney)



Other Legal Options



- Conservatorship
- Power of Attorney
- Advanced Directives for Health and Mental Health
- Prehospital Medical Care Directive
- Living Will



Other Legal Options (cont.)

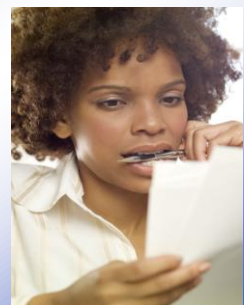


- Designated Representative
 - Mental Health Care
 - Vocational Rehabilitation Program
- Special Educations Transfer of Rights
- Trusts
- Representative Payee for Social Security

Guardianship or Conservatorship?



- A guardian makes decisions about the person
- A conservator makes decisions about the person's assets or estate



Conservatorship



A conservator can be appointed by the courts to protect assets for a person with a developmental disability or mental health issue because their assets could be wasted or dissipated.

No Relatives Available



- **Public** Fiduciary is a court appointed person to help with conservatorship
- **Private** Fiduciary is a company that may charge for their services to help with conservatorship.



Power of Attorney



- Durable General (Financial) Power of Attorney
- Durable Health Care Power of Attorney



Durable General (Financial) Power of Attorney



This document gives someone else the authority to handle his or her financial affairs now or in the future.



How is Durable Power of Attorney Used?



- Paying bills
- Managing property
- Investments
- Balancing their checkbook
- Signing legal documents



Any substantial property, money, or assets that need management should seek conservatorship

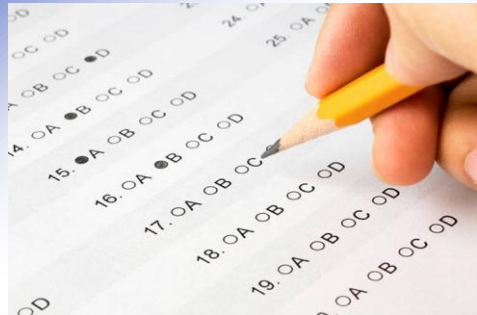
Durable Health Care Power of Attorney



Representative Payee Money from Social Security



Special Education Transfer of Rights



Why Is Transfer of Rights Needed?



If student is still attending high school and receiving parental assistance in the IEP process, transferring the rights may be beneficial.



Parent to Parent Connection



Would it be helpful to speak with another parent that has experienced this journey?



Mission Statement



To support and encourage families on the challenging journey of raising children with disabilities and special health needs.

We do this so families can maximize their abilities to successfully navigate through today's world.



Not what we expected...

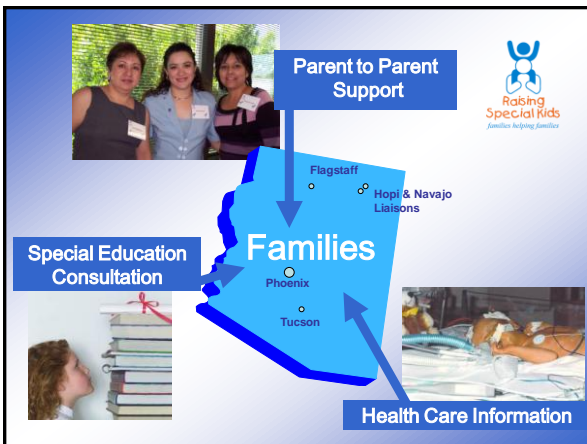




- From Birth



- Age 22



Our Services



- Are **no cost** to families
- Available in English and Spanish
- Support families of diverse culture, structure and background





Thank you!
Janna Murrell

Raising Special Kids

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Please complete and return
Your evaluation form
And sign in sheet.